IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.230 OF 2006
WITH
CIVIL APPLICATION NO.303 OF 2006

Western India Football Association. ..Appellant.

V/s.

Mahender Swami Junna & Anr. ..Respondents.

Mr.Ajitkumar C.Shah for appellant.

CORAM: A.M.KHANWILKAR,J

DATE : JUNE 14, 2006.

P.C. :

1. Heard Mr.Shah for the appellant.

2. This Appeal from Order challenges the order passed by the City Civil Court at Bombay dated 28th February, 2006 on Notice of Motion No.49 of 2005 in L.C.Suit No.88 of 2004. The said suit has been filed by the respondent essentially for restraining the appellant from interfering and/or disturbing and/or forcibly demolish or dispossess the respondent/plaintiff from the suit premises known as "Swami House" WIFA Cooperage Football Ground, Maharshi Karve Road, Mumbai 400 021 without following due process of law. During pendency of the said suit, respondent/plaintiff took out said Notice of

Motion for temporary relief in terms of the substantive reliefs claimed in the suit. Mr. Shah appearing for the appellant/original defendant submits that the defendant shall take recourse to appropriate remedy for eviction of the respondent/plaintiff. This is precisely what the respondent has claimed in the suit as filed. If the appellant takes recourse to remedy as provided by law for evicting the respondent/plaintiff, in that case nothing would survive in the suit for consideration. The suit will get worked out on appropriate orders passed in the said proceedings. The court below has granted liberty to the appellant to proceed with the eviction process against the respondent, as is noted in the impugned order. If it is so, no interference is warranted in this appeal except to reiterate the observations of the trial Court that it will be open to the appellant to proceed against the respondent/plaintiff with regard to the suit structure by following due process of law. Indeed, the claim of the respondent through original allotte will have to be considered in the proceedings to be resorted by the appellant for eviction in respective proceedings.

3. Appeal as well as civil application disposed

of on the above terms.